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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FOUR

GREGORY G. MEIER,

Plaintiff and Respondent,

v.

SANDRA M. LEFLER,

Defendant and Appellant.

B206913

(Los Angeles County
Super. Ct. No. BS084523)

APPEAL from a judgment of the Superior Court of Los Angeles County,
Brett C. Klein, Judge. Affirmed.

Sandra M. Lefler, in propria persona; and Lyle R. Horton, for Defendant and
Appellant.

Gregory G. Meier, in propria persona; and Karen R. Graham for Plaintiff
and Respondent.

Defendant Sandra M. Lefler appeals from a California judgment entered under the Sister State Money-Judgments Act (“the Act”; Code Civ. Proc., § 1710.10, et.seq.) domesticating an Oklahoma judgment against her in favor of plaintiff Gregory G. Meier.¹ We affirm.

BACKGROUND

The Oklahoma Trial Judgment

Lefler was Meier’s law partner in Oklahoma. She also co-founded Digi-Vue.com., Inc. (“Digi-Vue”), which owned a computer software program that compressed analog videos into digital computer files. After being solicited by Lefler, Meier invested \$50,000 in Digi-Vue. He also co-founded with Lefler another company, A2SeeMedia, L.L.C. (“A2”), to further develop Digi-Vue’s software program.

Lefler relocated to Palm Springs, California, and she and Meier dissolved their law practice. After their business dealings soured, Meier sued Lefler and Digi-Vue (among other defendants) in Oklahoma state court for fraud and related claims. He sought damages on behalf of himself and A2. A jury awarded Meier \$363,750 on his claims and \$3,633,000 on A2’s claims. The only portion of the jury awards relevant to this appeal are those on Meier’s individual claims for constructive fraud and securities fraud. On each of those claims, the jury gave Meier separate awards against Lefler and Digi-Vue, though the amount of the separate awards as to each defendant was identical, as follows: for constructive fraud, \$25,000 in compensatory damages and \$50,000 in punitive damages; for

¹ All undesignated section references are to the Code of Civil Procedure.

securities fraud, \$25,000 in compensatory damages, plus 10 percent interest, and \$50,000 in punitive damages.

The July 2003 California Judgment

Under section 1710.15 of the Act, Meier applied to the Los Angeles Superior Court to have the portion of the Oklahoma judgment against Lefler (a total of \$1,774,021.50, including interest) registered as a California judgment. In July 2003, the superior court entered the requested judgment.²

The March 2005 Appeal of the Oklahoma Trial Judgment

Meanwhile, Lefler and Digi-Vue appealed the Oklahoma trial judgment to the Oklahoma Court of Civil Appeals. In March 2005, that court reversed the judgment except as to Meier's personal claims for constructive fraud and securities fraud. On those claims, the Oklahoma appellate court modified the awards by consolidating them into single compensatory and punitive damage awards against both Lefler and Digi-Vue. As stated in its disposition of the appeal, the Oklahoma appellate court affirmed "the judgment against Defendants Lefler and Digi-Vue for constructive fraud and securities fraud but modif[ied] the damage award by reducing the same to a total of \$50,000 in compensatory damages plus ten percent

² In October 2003, Lefler moved to vacate this judgment on grounds unrelated to the instant case. The record does not reflect a ruling on that motion, and the parties do not discuss it.

Further, it appears that Meier also applied for and received entry of a second California judgment against Lefler in the sum of \$3,293,442.64 (reflecting the awards given to Meier personally and to Digi-Vue, plus applicable interest). Meier consented to vacating that judgment, and it is irrelevant to this appeal.

. . . interest from January 1, 2000, and \$100,000 in punitive damages against Lefler and Digi-Vue to prevent double recovery.”

The court reasoned: “Meier predicated his claims for constructive fraud and securities fraud on the same set of operative facts: Lefler’s misrepresentations about Digi-Vue’s software. Meier’s total damage was the loss of his \$50,000 investment. Meier was entitled to one award to compensate him for his injury, not two. He received \$25,000 from Lefler and \$25,000 from Digi-Vue under each of the two theories of fraud liability, for a total of \$100,000 in compensatory damages. The jury further awarded him \$50,000 in punitive damages against Lefler and another \$50,000 against Digi-Vue for each fraud claim, for a total of \$200,000 in punitive damages. Because we find the two fraud awards comprise a double recovery, we reduce the judgment to a total of \$50,000 in compensatory damages and a total of \$100,000 in punitive damages and, consistent with the jury’s securities fraud verdict, add ten percent . . . prejudgment interest from January 1, 2000 to the \$50,000 compensatory award.”

The March 2007 Appeal of the Oklahoma Attorney Fee Award

The Oklahoma trial court awarded Meier \$56,000 in attorney fees. Lefler again appealed to the Oklahoma Court of Civil Appeals, which affirmed the award in a March 2007 opinion. According to the Oklahoma appellate court, Lefler argued in part that “the trial court erred in failing to apportion the entire attorney-fee award between Lefler and Digi-Vue. In support of this argument, Lefler emphasizes that the initial jury verdicts entered against Digi-Vue and Lefler were \$25,000 [apiece] in actual damages on the securities fraud claim and \$25,000 apiece on the constructive fraud claim. She cites *Cox v. Kansas City Life Ins. Co.*, 1997 OK 122, 957 P.2d 1181, 1186, for the proposition that where a jury returns a

verdict for separate amounts against two distinct parties, it imposes individual, not joint, liability and one party cannot be held liable for the judgment against the other. Lefler's arguments in this regard ignore several things [including that] while the original jury verdict totaled \$50,000 in actual damages against Lefler (\$25,000 for securities fraud and \$25,000 for constructive fraud) and \$50,000 against Digi-Vue on the same charges (again, \$25,000 for securities fraud and \$25,000 for constructive fraud), this Court on appeal, in order to avoid an impermissible double recovery, reduced those awards to \$50,000 in total actual damages, *without differentiating between defendants or fraud claims*. Lefler's counsel conceded as much in [a later quoted] exchange during the attorney-fee hearing on remand. . . . Given this, we hold the trial court did not abuse its discretion in denying Lefler's motion to apportion attorney fees on remand between Lefler and Digi-Vue." (Italics in original.)

The Superior Court's Order to Show Cause

In July 2007, the Los Angeles Superior Court issued an order to Meier to show cause whether, in light of the modification of the Oklahoma judgment, the July 2003 California judgment against Lefler should be vacated or modified to reflect an award of \$150,000 plus interest.

The record on appeal does not contain Meier's briefing in response to the order to show cause. It does, however, contain Lefler's briefing. Lefler argued that the court should enter judgment against her on Meier's constructive and securities fraud claims for a total of \$25,000 in compensatory damages (plus applicable interest) and \$50,000 in punitive damages. She reasoned that the Oklahoma jury verdict imposed separate, rather than joint and several, liability on Lefler and Digi-Vue. That verdict was incorporated into the judgment entered by

the Oklahoma trial court. In the Oklahoma appeal, Meier did not raise the issue of joint and several liability, and therefore under Oklahoma law the appellate court had no authority to modify the judgment to impose such liability. Thus, Lefler was not jointly and severally liable with Digi-Vue for the entire judgment as modified by the Oklahoma appellate court (\$50,000 in compensatory damages and \$100,000 in punitive damages) but rather separately liable for half the modified judgment (\$25,000 in compensatory and \$50,000 in punitive damages).

The Hearing on the Order to Show Cause

At the hearing on the order to show cause on October 26, 2007, Lefler reiterated the arguments she had made in her briefing. Meier argued that the Oklahoma appellate court made it clear that the modified judgment imposed joint and several liability on Lefler. He urged the court to modify the California judgment to reflect a total award against Lefler of \$150,000.

The superior court ruled that the Oklahoma appellate court made Lefler jointly and severally liable for the full \$150,000 award on Meier's fraud claims, plus 10 percent interest on the compensatory portion of the award. The court ruled, however, that it would not incorporate that ruling into a judgment against Lefler until Meier applied to also incorporate his award of \$56,000 in attorney fees. Further, the court left the existing judgment in place, but cautioned Meier not to seek to enforce it because it would be superseded by a later judgment.

Meier's Application to Augment the Judgment, and Lefler's Motion to Stay or Vacate

Pursuant to the superior court's ruling, Meier applied to augment the judgment amount against Lefler by adding the \$56,000 attorney fee award, plus interest.

Lefler filed a motion to stay entry of the judgment, or in the alternative to vacate the judgment. As relevant to this appeal, she argued that the proposed California judgment against her exceeded the Oklahoma judgment and was an impermissible amendment of that judgment. As she had earlier argued in response to the superior court's order to show cause, she asserted that the Oklahoma jury verdict imposed separate liability and that the Oklahoma appellate court lacked jurisdiction to change that aspect of the Oklahoma judgment.

The January 30, 2008 Judgment

The superior court heard Meier's application and Lefler's motion on January 18, 2008. The court denied Lefler's request to stay entry of the proposed California judgment and (apparently) her request to vacate the judgment (which had not yet been entered), and granted Meier's request to augment the amount of the judgment. Meier conceded that the judgment amount should be reduced by \$5,000 to reflect a partial satisfaction.

On January 30, 2008, the court vacated the earlier July 2003 California judgment, and entered a new judgment against Lefler in the sum of \$299,404.63, reflecting the full \$150,000 on Meier's fraud claims, the \$56,000 attorney fee award, plus interest on those amounts, less a \$5,000 credit for partial satisfaction. The court gave notice of entry of judgment on the same date.

On March 28, Lefler filed a notice of appeal from the judgment.

DISCUSSION

Lefler contends that the superior court erroneously “changed both the amount and the type of the judgment from what was originally awarded in [Oklahoma].” She reiterates the argument she unsuccessfully made in the superior court: the original Oklahoma judgment imposed separate liability, and the Oklahoma appeals did not change that aspect of the judgment. She requests that we “correct the amount of the domesticated judgment to match the judgment of the Oklahoma court, limiting the award to \$25,000 plus interest at 10% from January 1, 2000 until paid as . . . actual damages, and \$50,000 in punitive damages.” We conclude that the trial court did not abuse its discretion in entering judgment.

The Sister State Money Judgments Act “provides an expeditious and economical registration procedure for enforcing sister-state money judgments in California.” (*Washoe Development Co. v. Guaranty Federal Bank* (1996) 47 Cal.App.4th 1518, 1521-1522.) Under the Act, as here relevant, a judgment creditor may apply to the superior court for entry in California of a sister state money judgment. (§§ 1710.15, 1710.20.) Upon the filing of a statutorily sufficient application (see § 1710.15, subds. (b) and (c)), “the clerk shall enter a judgment based upon the application.” (§ 1710.25, subd. (a).) Following entry of the California judgment, the judgment creditor must give notice to the judgment debtor (§ 1710.30, subd. (a)), who within 30 days may make a motion to vacate the judgment (§ 1710.40, subd. (a)). The judgment “may be vacated on any ground which would be a defense to an action in this state on the sister state judgment.” (§ 1710.40, subd. (a).) On hearing the motion, the superior court may vacate the judgment and enter a different judgment, “including, but not limited to, another and different judgment for the judgment creditor if the decision of the court is that

the judgment creditor is entitled to such different judgment.” (§ 1710.40, subd. (c).) The judgment debtor may obtain a stay of enforcement of the judgment under certain circumstances, including when an appeal from the sister state judgment is pending, when a motion to vacate has been made, a stay of enforcement has been obtained in the sister state, or in “[a]ny other circumstance . . . where the interests of justice require a stay of enforcement.” (§ 1710.50, subd. (a)(4).)

In the instant case, the procedure of the Act was not followed to the letter, resulting in Lefler making a premature motion to vacate the relevant judgment – the one entered in January 2008 – before it was actually entered. There is an issue, not briefed by the parties, as to whether Lefler’s notice of appeal from the California judgment is defective. Although the authority is sparse, it appears that when a judgment is entered under the Sister State Money-Judgments Act on application of the plaintiff, the defendant does not appeal from the judgment. Rather, the defendant moves to vacate the judgment, and the appeal, if any, is from a denial of the motion to vacate. (*Silbrico Corp. v. Raanan* (1985) 170 Cal.App.3d 202, 206.) Here, the superior court did not follow the statutory procedure, resulting in Lefler making a motion to vacate before the judgment was entered, and then appealing from the judgment itself. We conclude, however, that on this record the better course of action is to treat the appeal as effective. Although the procedure is unusual, it would exalt form over substance to dismiss this appeal. Thus, we treat the motion as properly made, and apply the standard rules applicable to reviewing a trial court’s ruling on a motion to vacate. The judgment debtor bears the burden of showing by a preponderance of the evidence why the judgment should be vacated. (*Tsakos Shipping & Trading, S.A. v. Juniper Garden Town Homes, Ltd.* (1993) 12 Cal.App.4th 74, 88 (*Tsakos*); *Tom Thumb Glove Co. v. Han* (1978) 78 Cal.App.3d 1, 5.) The appellate court reviews the order for abuse

of discretion, viewing all factual matters most favorably to the party prevailing below. (*Liebow v. Superior Court* (1981) 120 Cal.App.3d 573, 576; *Fishman v. Fishman* (1981) 117 Cal.App.3d 815, 819; *Tsakos, supra*, 12 Cal.App.4th at pp. 88-89.)

Here, the trial court did not abuse its discretion. A “sister state judgment” enforceable under the Act means, as here relevant, “that part of any judgment, decree, or order of a court of a state of the United States, other than California, which requires the payment of money.” (§ 1710.10, subd. (c).) Lefler can point to no “judgment, decree, or order” of an Oklahoma court that requires her to pay only \$25,000 in compensatory damages (plus interest) and \$50,000 in punitive damages on Meier’s fraud claims. To the contrary, the California judgment is based on: (1) the Oklahoma judgment on Meier’s fraud claims, as affirmed and modified by the Oklahoma Court of Civil Appeals in March 2005; and (2) the Oklahoma judgment awarding Meier \$56,000 in attorney fees, as affirmed by the same appellate court in March 2007. The holdings in these appeals make clear that Lefler is liable to pay the entirety of the money judgment on Meier’s fraud claims.

In the March 2005 opinion, the Oklahoma appellate court affirmed “the judgment against Defendants Lefler and Digi-Vue for constructive fraud and securities fraud but modif[ied] the damage award by reducing the same to a total of \$50,000 in compensatory damages [plus interest], and \$100,000 in punitive damages against Lefler and Digi-Vue to prevent double recovery.” In the March 2007 opinion, the court affirmed the \$56,000 attorney fee award to Meier, and explained that its March 2005 modification of the damage award had not imposed separate judgment amounts for which Lefler and Digi-Vue were individually liable, but a single judgment amount for which both were equally liable. As the court stated in its March 2007 opinion, Lefler argued that the trial court should

have apportioned the attorney fees award between Lefler and Digi-Vue in accordance with the jury verdict on the fraud claims imposing separate liability. The court held, however, that no apportionment was required, because the judgment as modified in March 2005 did not differentiate between the defendants or fraud claims.

On this showing, the superior court did not abuse its discretion in concluding that Lefler was equally liable with Digi-Vue for the entirety of Meier's damages on his fraud claims, just as she was liable for the entirety of the attorney fees award on those claims.

Lefler argues that the Oklahoma appellate court lacked the authority under Oklahoma law to change the trial court judgment on Meier's fraud claims from separate to joint and several liability. However, a jurisdictionally valid judgment entered by a court of a sister state must be afforded full faith and credit, even if the judgment is based on an erroneous view of that state's law. (*Bank of America v. Jennett* (1999) 77 Cal.App.4th 104, 112, 117-121.) Here, the Oklahoma appellate court had fundamental jurisdiction over the parties and the subject matter. Thus, the judgment of that court is entitled to full faith and credit, even if it is based on an erroneous application of Oklahoma law. (*Id.* at p. 112.)

DISPOSITION

The judgment is affirmed. Meier shall have his costs on appeal.

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WILLHITE, J.

We concur:

EPSTEIN, P. J.

SUZUKAWA, J.